

**CS FOR HOUSE BILL NO. 33(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/11/05

Referred: Finance

Sponsor(s): REPRESENTATIVES MEYER, Wilson, Kelly, Neuman, McGuire, Anderson

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to regulations that may govern the conduct of small businesses; and**  
2   **providing for an effective date."**

3   **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4    \* **Section 1.** AS 44.62 is amended by adding a new section to read:

5           **Sec. 44.62.218. Regulations affecting small businesses.** (a) Before a  
6           designated state agency adopts a proposed regulation that may govern the conduct of  
7           small businesses, or when a person petitions a designated state agency under  
8           AS 44.62.220 to adopt a proposed regulation that may govern the conduct of small  
9           businesses, the designated state agency shall

10                   (1) notify the department that the designated state agency intends to  
11                   adopt the proposed regulation or has received a petition under AS 44.62.220 to adopt  
12                   the proposed regulation;

13                   (2) prepare an economic effect statement under (b) of this section; and

14                   (3) prepare a regulatory flexibility analysis under (c) of this section.

(b) A designated state agency shall use the information received under AS 44.62.210 and 44.62.215, information provided by the department under (e) of this section, and other information in the files of the designated state agency to prepare the economic effect statement required by (a) of this section. The economic effect statement must provide

(1) a general description of small businesses that would be subject to the proposed regulation;

(2) the projected reporting, recordkeeping, and other administrative costs that small businesses would be required to incur in order to comply with the proposed regulation, including an identification of the type of professional skills necessary to prepare the report or record or to take the administrative action;

(3) a statement of the probable economic effect that the proposed regulation would have on the small businesses whose conduct would be governed by the proposed regulation; and

(4) a description of any alternative methods of achieving the purpose of the proposed regulation that would be less intrusive or less costly for the small businesses whose conduct would be governed by the proposed regulation.

(c) In the regulatory flexibility analysis required by (a) of this section, a designated state agency shall consider using regulatory methods that

(1) minimize the effects of the proposed regulation on small businesses without compromising the objectives of statutes authorizing the proposed regulation; and

(2) are consistent with health, safety, environmental welfare, and economic welfare.

(d) When preparing the regulatory flexibility analysis under (c) of this section, the designated state agency shall consider

(1) the establishment of less stringent compliance or reporting requirements for small businesses;

(2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(3) the consolidation or simplification of compliance or reporting

1 requirements for small businesses;

2 (4) the establishment of performance standards to replace design or  
3 operational standards for small businesses; and

4 (5) the exemption of small businesses from all or any part of the  
5 requirements contained in the proposed regulation.

6 (e) The department shall advise and assist a designated state agency to comply  
7 with this section.

8 (f) This section does not apply to regulations

9 (1) of a board or commission whose members are subject to  
10 confirmation by the legislature;

11 (2) of the Alaska Energy Authority;

12 (3) of the Department of Environmental Conservation that are adopted  
13 under the authority of AS 46.03.050 - 46.03.900, AS 46.04, AS 46.08, AS 46.09,  
14 AS 46.11, AS 46.14, AS 46.35, or AS 46.45;

15 (4) of the Local Boundary Commission; or

16 (5) mandated by federal law as a condition for participating in or  
17 implementing a federally subsidized or assisted program, or for obtaining or  
18 maintaining state primacy in a federal program.

19 (g) This section does not create a private cause of action. If a designated state  
20 agency fails to comply with this section, the failure does not establish a ground on  
21 which to invalidate a regulation that has been filed by the lieutenant governor under  
22 AS 44.62.080. This subsection is not intended to prevent judicial review of a  
23 regulation under AS 44.62.300 for a reason unrelated to this section.

24 (h) In this section,

25 (1) "department" means the Department of Commerce, Community,  
26 and Economic Development;

27 (2) "designated state agency" means the

28 (A) Department of Commerce, Community, and Economic  
29 Development;

30 (B) Department of Environmental Conservation;

31 (C) Department of Health and Social Services; or

1 (D) Department of Labor and Workforce Development;

2 (3) "governs the conduct" means regulates the manner in which a small  
3 business conducts its business activities but does not include the imposition of a fee to  
4 cover the cost of a state service if the fee is charged uniformly to all users of the  
5 service;

6 (4) "proposed regulation" means a proposal for a new regulation or for  
7 a change in or an addition to an existing regulation but does not include the repeal of  
8 an existing regulation;

9 (5) "regulation" has the meaning given in AS 44.62.640, but does not  
10 include an emergency regulation under AS 44.62.250 - 44.62.260;

11 (6) "small business" means

12 (A) a business entity, including its affiliates, that

13 (i) is independently owned and operated; and

14 (ii) employs fewer than 100 employees;

15 (B) a village corporation that employs fewer than 100  
16 employees; in this subparagraph, "village corporation" has the meaning given  
17 in 43 U.S.C. 1602(j); or

18 (C) a nonprofit utility that employs fewer than 100 employees;  
19 in this subparagraph, "utility" has the meaning given in AS 42.05.990.

20 \* **Sec. 2.** The uncoded law of the State of Alaska is amended by adding a new section to  
21 read:

22 **TRANSITION.** AS 44.62.218, enacted by sec. 1 of this Act, applies to a proposed  
23 regulation proposed by a designated state agency on or after January 1, 2006 or by an  
24 interested person under AS 44.62.220 on or after January 1, 2006. In this section, "designated  
25 state agency" and "proposed regulation" have the meanings given in AS 44.62.218, enacted  
26 by sec. 1 of this Act.

27 \* **Sec. 3.** This Act takes effect January 1, 2006.